

IC8MM1.4CP1RE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Mark J. Burzynski *et al.*
Appl. No. : 10/614,543
Filed : July 3, 2003
For : SELF-BLUNTING NEEDLE
MEDICAL DEVICES AND
METHODS OF MANUFACTURE
THEREOF
Examiner : Unassigned
Group Art Unit : 3763
Confirmation No. : 1514

PETITION UNDER 37 C.F.R. 1.47

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants petition the Commissioner to accept the enclosed Reissue Declaration for the above application executed by Richard S. Kearns. The remaining five inventors have refused to execute the Reissue Declaration. Filed herewith is a Declaration of Pui Tong Ho in support of this petition.

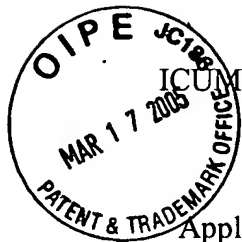
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 14, 2005

By: 

Pui Tong Ho
Registration No. 44,155
Attorney of Record
Customer No. 20,995
(949) 760-0404



ICUMM1.4CP1RE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Mark J. Burzynski *et al.*
Appl. No. : 10/614,543
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For : SELF-BLUNTING NEEDLE
MEDICAL DEVICES AND
METHODS OF MANUFACTURE
THEREOF
Examiner : Unassigned
Group Art Unit : 3763
Confirmation No. : 1514

DECLARATION OF PUI TONG HO IN SUPPORT OF PETITION UNDER 37 C.F.R. 1.47

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

03/18/2005 DTESSEM1 00000044 111410 10614543
03 FC:1463 70.00 DA 130.00 OP

Dear Sir:

I, Pui Tong Ho, declare as follows:

1. I am an attorney at Knobbe, Martens, Olson & Bear, LLP, which represents ICU Medical, Inc. in this matter.
2. U.S. Patent No. 6,254,574 issued on July 3, 2001 naming as inventors Mark J. Burzynski, Alexander K. Jones, Richard S. Kearns, John M. Polidoro, Carl R. Sahi, and Chad C. Smutney.
3. On July 3, 2003, the current application was filed as a reissue application for U.S. Patent No. 6,254,574.
4. On September 14, 2004, a Notice of Missing parts for the current application was mailed.
5. On November 9, 2004, I telephoned Mark J. Burzynski at (203) 264-9479. I confirmed that he is the inventor named on the face of U.S. Patent No. 6,254,574 and obtained his mailing address.
6. On November 9, 2004, I mailed a letter to Mr. Burzynski enclosing copies of U.S. Patent No. 6,254,574, the Preliminary Amendment filed in the current case, and the Reissue

Declaration. Also enclosed was a stamped, self-addressed return envelope. A copy of the letter is attached as EXHIBIT A.

7. As of January 18, 2005, I had not received a response from Mr. Burzynski. Accordingly, I mailed a letter enclosing a copy of the Reissue Declaration, a statement that Mr. Burzynski does not wish to execute the Reissue Declaration, and a stamped, self-addressed return envelope. A copy of the letter is attached as EXHIBIT B.

8. On February 7, 2005, I received EXHIBIT C, in which Mr. Burzynski refused to execute the Reissue Declaration.

9. On November 9, 2004, I telephoned Alexander K. Jones at (203) 795-3998, which is believed to be his business address. I confirmed that he is the inventor named on the face of U.S. Patent No. 6,254,574 and obtained his mailing address.

10. On November 9, 2004, I mailed a letter to Mr. Jones enclosing copies of U.S. Patent No. 6,254,574, the Preliminary Amendment filed in the current case, and the Reissue Declaration. Also enclosed was a stamped, self-addressed return envelope. A copy of the letter is attached as EXHIBIT D.

11. As of January 18, 2005, I had not received a response from Mr. Jones. Accordingly, I mailed a letter enclosing a copy of the Reissue Declaration, a statement that Mr. Jones does not wish to execute the Reissue Declaration, and a stamped, self-addressed return envelope. A copy of the letter is attached as EXHIBIT E.

12. On March 12, 2005, I telephoned Mr. Jones and asked him if he had received the letters of November 9, 2004 and January 18, 2005. He confirmed that he had received the letters. He stated that his current intention was not to execute the Reissue Declaration because Mr. Polidoro, Mr. Sahi, and Mr. Smutney had not done so.

13. On November 8, 2004, I telephoned John M. Polidoro at (860) 716-9974, which is the telephone number provided on the website <http://www.avisionary.com> for aVisionary Co. I confirmed that he is the inventor named on the face of U.S. Patent No. 6,254,574. I also confirmed that Carl R. Sahi and Chad C. Smutney also work at aVisionary Co. and that they are the inventors named on the face of U.S. Patent No. 6,254,574.

14. On November 9, 2004, I mailed a letter to Mr. Polidoro enclosing copies of U.S. Patent No. 6,254,574, the Preliminary Amendment filed in the current case, and the Reissue Declaration. Also enclosed was a stamped, self-addressed return envelope. The letter requested

Appl. No. : 10/614,543

Responsive to a Notice to File Missing Parts mailed September 14, 2004

that Mr. Polidoro also request that Mr. Sahi and Mr. Smutney execute the Reissue Declaration. A copy of the letter is attached as EXHIBIT F.

15. On December 30, 2004, I received EXHIBIT G in which Mr. Polidoro, Mr. Sahi, and Mr. Smutney all refused to execute the Reissue Declaration.

16. The names and last known mailing addresses for the non-signing inventors are as follows:

Mark J. Burzynski, 62 Charter Oak Road, Southbury, CT 06488;

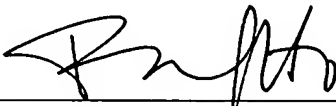
Alexander K. Jones, 165 Riggs Road, Orange, CT 06477;

John M. Polidoro, 232 Woodmont Drive, Coventry, CT 06238;

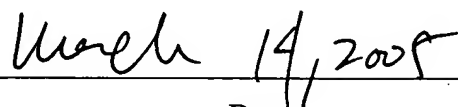
Carl R. Sahi, aVisionary Co., 389 High Street, Coventry, CT 06238;

Chad C. Smutney, aVisionary Co., 389 High Street, Coventry, CT 06238.

17. I further declare that all statements made herein are true, and all statements made on information and belief are believed to be true. I understand that willful false statements are punishable by fine, imprisonment, or both under 18 U.S.C. § 1001, and that such statements may jeopardize the validity of the application or any patent issuing from the application.



Pu Tong Ho



Date

Knobbe Martens Olson & Bear LLP

Intellectual Property Law

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Fourteenth Floor
Irvine, CA 92614
Tel 949-760-0404
Fax 949-760-9502
www.kmob.com

Pui Tong Ho
pth@kmob.com

November 9, 2004

Mark J. Burzynski
62 Charter Oak Road
Southbury, CT 06488

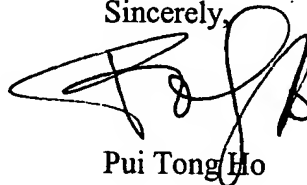
Re: U.S. Patent No. 6,254,574, Reissue Declaration
Title: SELF-BLUNTING NEEDLE MEDICAL DEVICES AND METHODS
OF MANUFACTURE THEREOF
Our ref.: ICUMM1.4CP1RE

Dear Mr. Burzynski:

I am writing to you concerning the above patent. I am working with the current owner of the patent, ICU Medical, to prepare a reissue application for this patent. In the reissue, we will present to the U.S. Patent and Trademark Office claims broader than the presently issued claims. One of the requirements in the reissue application is a new Declaration by the Inventors, which is referred to as a Reissue Declaration.

Enclosed are copies of the above patent, of the claims, and of the Reissue Declaration. Please execute the Reissue Declaration and return the Declaration to us in the enclosed envelope. If you have any questions, I can be reached at the above address or at 949 721 2968. Thank-you for your help.

Sincerely,



Pui Tong Ho

Enclosures

cc: Steven J. Nataupsky, Esq.
Salima A. Merani, Esq.

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110904

San Diego
619-235-8550

San Francisco
415-954-4114

Los Angeles
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Riverside
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San Luis Obispo
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Pui Tong Ho
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January 18, 2005

Mark J. Burzynski
62 Charter Oak Road
Southbury, CT 06488

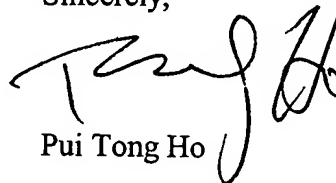
Re: U.S. Patent No. 6,254,574, Reissue Declaration
Title: SELF-BLUNTING NEEDLE MEDICAL DEVICES AND METHODS
OF MANUFACTURE THEREOF
Our ref.: ICUMM1.4CP1RE

Dear Mr. Burzynski:

I am writing to follow-up a letter that I mailed to you on November 9, 2004 requesting that you execute an Inventor Declaration and return it to us. Because we have not yet received your response, I am writing to again request that you execute the Declaration and return it in the enclosed envelope. If you have already executed the Declaration and our letters crossed in the mail, I thank you for your assistance. Otherwise, I have enclosed a copy of the Declaration and a prepaid return envelope for your convenience.

If you do not wish to execute the Declaration, please execute the enclosed statement to that effect and return it in the prepaid envelope. Mr. Polidoro, Smutney, and Sahi have all declined to execute the Declaration. If you have any questions, I can be reached at the above address or at 949 721 2968. Thank-you for your help.

Sincerely,



Pui Tong Ho

Enclosures

cc: Steven J. Nataupsky, Esq.
Salima A. Merani, Esq.

San Diego
619-235-8550

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Mark J. Burzynski

January 18, 2005

Page - 2 -

I decline to execute the Reissue Declaration for U.S. Patent No. 6,254,574 enclosed in letters dated November 9, 2004 and January 18, 2005.

Date

Mark J. Burzynski

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Mark J. Burzynski

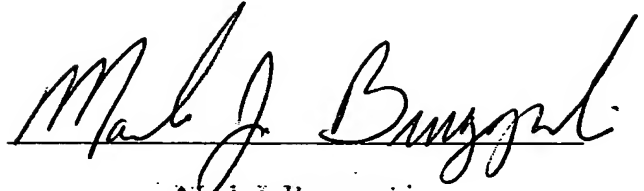
January 18, 2005

Page - 2 -

I decline to execute the Reissue Declaration for U.S. Patent No. 6,254,574 enclosed in letters dated November 9, 2004 and January 18, 2005.

1/24/05

Date



Mark J. Burzynski

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Knobbe Martens Olson & Bear LLP

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Pui Tong Ho
pth@kmob.com

November 9, 2004

Alexander K. Jones
165 Riggs Road
Orange, CT 06477

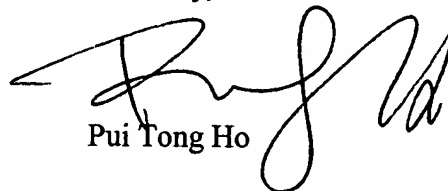
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Title: SELF-BLUNTING NEEDLE MEDICAL DEVICES AND METHODS
OF MANUFACTURE THEREOF
Our ref.: ICUMM1.4CP1RE

Dear Mr. Jones:

Thank-you for speaking with me today concerning the above patent. We are currently preparing a reissue application for this patent. In the reissue, we will present to the U.S. Patent and Trademark Office claims broader than the presently issued claims. One of the requirements in the reissue application is a new Declaration by the Inventors, which is referred to as a Reissue Declaration.

Enclosed are copies of the above patent, of the claims, and of the Reissue Declaration. Please execute the Reissue Declaration and return the Declaration to us in the enclosed envelope. I am also inquiring as to the current policy concerning the placard. If you have any questions, I can be reached at the above address or at 949 721 2968. Thank-you for your help.

Sincerely,



Pui Tong Ho

Enclosures

cc: Steven J. Nataupsky, Esq.
Salima A. Merani, Esq.

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January 18, 2005

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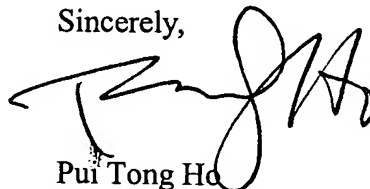
Re: U.S. Patent No. 6,254,574, Reissue Declaration
Title: SELF-BLUNTING NEEDLE MEDICAL DEVICES AND METHODS
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Dear Mr. Jones:

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If you do not wish to execute the Declaration, please execute the enclosed statement to that effect and return it in the prepaid envelope. Mr. Polidoro, Smutney, and Sahi have declined to execute the Declaration. If you have any questions, I can be reached at the above address or at 949 721 2968. Thank-you for your help.

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Alexander K. Jones

January 18, 2005

Page - 2 -

I decline to execute the Reissue Declaration for U.S. Patent No. 6,254,574 enclosed in letters dated November 9, 2004 and January 18, 2005.

Date

Alexander K. Jones

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Pui Tong Ho
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November 8, 2004

John M. Polidoro
aVisionary Co.
389 High Street
Coventry, CT 06238

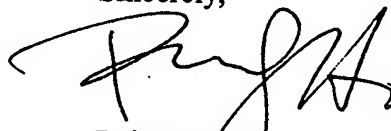
Re: U.S. Patent No. 6,254,574, Reissue Declaration
Title: SELF-BLUNTING NEEDLE MEDICAL DEVICES AND METHODS
OF MANUFACTURE THEREOF
Our ref.: ICUMM1.4CP2RE

Dear Mr. Polidoro:

Thank-you for speaking with me today concerning the above patent. We are currently preparing a reissue application for this patent. In the reissue, we will present to the U.S. Patent and Trademark Office claims broader than the presently issued claims. One of the requirements in the reissue application is a new Declaration by the Inventors, which is referred to as a Reissue Declaration.

Enclosed are copies of the above patent, of the claims, and of the Reissue Declaration. Our understanding is that coinventors Mr. Carl R. Sahi and Mr. Chad C. Smutney are also at aVisionary. Please execute the Reissue Declaration and request that Mr. Sahi and Smutney also do so, then return the Declaration to us in the enclosed envelope. If you have any questions, I can be reached at the above address or at 949 721 2968. Thank-you for your help.

Sincerely,



Pui Tong Ho

Enclosures

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John M. Polidoro
232 Woodmont Drive
Coventry, CT 06238

December 14, 2004

Mr. Pui Tong Ho
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, Fourteenth Fl.
Irvine, CA 92614

Dear Mr. Ho,

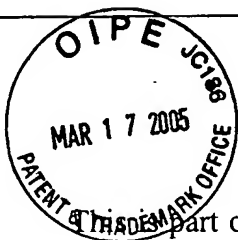
I have reviewed the reissue application for U.S. Patent No. 6,254,574 B1, SELF BLUNTING NEEDLE MEDICAL DEVICES AND METHODS OF MANUFACTURE THEREOF, prepared by your office. I do not feel I have an obligation to ICU Medical to sign the Reissue Declaration and, consequently, am returning it to you unsigned.

In addition, you have asked that I forward the application to both Chad Smutney and Carl Sahi. They, too, have reviewed the application and neither feels they have an obligation to ICU Medical to sign the Declaration, as indicated by their signatures below.

Sincerely,

John M. Polidoro

Chad C. Smutney
Carl R. Sahi



**REISSUE APPLICATION
CONSENT OF ASSIGNEE
37 C.F.R. §1.172**

part of the application for a reissue patent based on the original patent identified below.

Names of Patentees: **Burzynski et al**

Patent Number: **6,254,574 B1**

Date Issued: **July 3, 2001**

Title: **SELF-BLUNTING NEEDLE MEDICAL DEVICES AND METHODS OF MANUFACTURE THEREOF**

Filed herein is a statement under 37 C.F.R. §3.73(b).

The assignee owning an undivided interest in said original patent is **Bio-Plexus, Inc.**, and the assignee consents to the accompanying application for reissue.

Bio-Plexus, Inc.

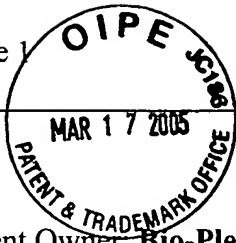
Dated:

July 25, 2003

By:

Francis J. O'Brien

Francis J. O'Brien
Secretary
129 Reservoir Road
Vernon, CT 06066



STATEMENT UNDER 37 C.F.R. §3.73(b)

Patent Owner: **Bio-Plexus, Inc.**Patent Number: **6,254,574 B1**Date Issued: **July 3, 2001****Title: SELF-BLUNTING NEEDLE MEDICAL DEVICES AND METHODS OF MANUFACTURE THEREOF**

Bio-Plexus, Inc., a Delaware corporation, states that it is the assignee of the entire right, title, and interest in the patent identified above by virtue of an assignment from the inventors of the patent identified above. The assignment of was recorded in the United States Patent and Trademark Office at Reel 010341, Frame 0802.

Bio-Plexus, Inc.

Dated: July 25, 2003By: Francis J. O'Brien

Francis J. O'Brien
Secretary
129 Reservoir Road
Vernon, CT 06066

H:\DOCS\PTH\ICU MEDICAL-BP\NCUMM1.4CP1RE\STATEMENT UNDER 37 CFR 3.73, REISSUE.DOC

062703



Attorney's Docket No.: ICUMM1.4CP1RE

OFFER TO SURRENDER
37 C.F.R. §1.178

ASSISTANT COMMISSIONER FOR PATENTS:

Bio-Plexus, Inc., the assignee of the accompanying reissue application for the reissue of letters Patent No. **6,254,574 B1** for an improvement in **SELF-BLUNTING NEEDLE MEDICAL DEVICES AND METHODS OF MANUFACTURE THEREOF**, granted on **July 3, 2001** to **Burzynski et al.**, hereby offers to surrender said letters patent.

Bio-Plexus, Inc.

Dated: July 25, 2003

By: Francis J. O'Brien

Francis J. O'Brien
Secretary
129 Reservoir Road
Vernon, CT 06066